IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

WRIT PETITION NO. 8696 OF 2004.

Keki Miniocher Mistry. .. Petitioner.
V/s.
Helvetia Tours and Travels P.Ltd ... Respondents.

Shri Mohan Jaikar i/b Ashis Panicar for the petitioner.

Ms. Ranjana Parikh for the respondent.

CORAM : V.C.DAGA, J.

DATEd: 27.9.2006.

P.C. :

. This matter was placed in order matters. Considering the issue leading to the amendment of written statement; the matter is taken up for final disposal at the stage of admission by consent of parties.

2. Heard learned Counsel for the rival parties.

Perused petition.

3. This petition is at the instance of the tenant, arising out of a suit filed by the landlord for eviction of the petitioner-tenant, on the ground of bonafide need.

4. The trial Court framed issues pursuant to the pleadings of the parties. The issues framed are: (1) Whether plaintiff requires the suit

premises reasonably and bonafide for their use and occupation/? and (2) To whom greater hardship will be caused by passing a decree or refusing to pass it?"

5. Application for amendment of written statement came to be moved by the defendant seeking to lift corporate veil, on the facts disclosed by the plaintiffs in their evidence.

6. This amendment was opposed by learned Counsel appearing for the respondent-plaintiff. The same was rejected by the trial Court.

7. During the course of hearing, learned Counsel for the respondent-plaintiff submitted that the respondent may not have serious objection for grant of amendment to raise legal contentions; but at the same time, plaintiff should also be allowed to amend the plaint. Needless to mention that if defendant is allowed to amend the written statement, then plaintiff will certainly be entitled to effect consequential amendment to the plaint.

8. In the above of the matter, considering the nature of the amendment and consensus between the parties, petitioner to carry out amendment to the written statement in terms of the schedule reproduced at page 34 of the petition. The

plaintiff is also permitted to effect consequential amendment to the plaint and raise pleas, arising out of the amendment to the written statement. All rival contentions in this behalf are kept open.

9. In the above view of the matter, impugned order is quashed and set aside. Petitioner is permitted to amend his written statement, within one week from the date of receipt of this order. Respondent is also permitted to amend the plaint within one week thereafter. The trial Court is directed to frame necessary issues based on rival pleadings brought on record by way of amendment within one week thereafter. Trial Court is further directed to try the suit as expeditiously as possible and disposed of the same within one year from the date of receipt of this order.

(V.C.DAGA,J.)